

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1777-01  
Bill No.: SB 336  
Subject: Insurance - General; Civil Procedure  
Type: Original  
Date: February 20, 2009

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Bill Summary: Creates a legal process for insurance companies to contest policy coverage issues without breaching certain agreements to their insureds.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Insurance Dedicated	\$38,050	\$0	\$0
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$38,050</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 4 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of State Courts Administrator** assume the proposal will not fiscally impact their organization.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** estimate 761 insurers will be required to submit amendments to their policies to comply with the legislation. Policy amendments must be submitted to the department for review along with a \$50 filing fee. One-time additional revenues to the Insurance Dedicated Fund are estimated to be \$38,050.

Additional staff and expenses are not being requested with this single proposal, but if multiple proposals pass during the legislative session which require policy form reviews, the DIFP will need to request additional staff to handle the increase in workload.

**This proposal will result in an increase in total state revenue.**

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
<b>INSURANCE DEDICATED FUND</b>			
<u>Income - DIFP</u>			
Form filing fees	<u>\$38,050</u>	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND</b>	<b><u>\$38,050</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

### FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

### FISCAL DESCRIPTION

Under the terms of this proposal, if a lawsuit is filed in which an insurance company might be obligated to make payment under an insurance policy, the insurance company may contest the applicability of its coverages to the facts of the lawsuit at hand by: (1) Denying coverage to the insured in a clear and unequivocal communication; or (2) Notifying the insured that it contests the applicability of the policy's coverages to the facts pled in the lawsuit and that the insured may select legal counsel to defend the action at the insurer's expense until the issue of coverage is resolved.

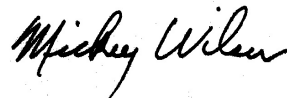
If the insurance company elects to deny coverage by notifying the insured, then the insurer may proceed to defend the lawsuit in any manner (including entering into an agreement with the adverse party to allow a judgment to be taken in the case). This action shall not constitute a breach of any agreement to cooperate provision contained in the insurance policy.

The institution of a declaratory judgment action under the proposal to contest coverage shall not constitute a breach of its insurance policy, either present or anticipatory.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

### SOURCES OF INFORMATION

Office of State Courts Administrator  
Department of Insurance, Financial Institutions and Professional Registration

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Director  
February 20, 2009